



RIGHTS STUFF

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Lying About Facebook Posting Legitimate Grounds for Termination

Wendy Barnett is a registered nurse who began working in the psychiatric unit of Aultman Hospital in 2002. Her supervisor was Lisa Summer. On January 4, 2011, Barnett was at home, on vacation, when she heard that Summer had been fired. (That turned out not to be true.) Barnett used Facebook to send out an e-mail to at least 14 people that said "Lisa got officially ax (sic) today. I am singing DING DONG THE WITCH IS DEAD. THE WICKED WITCH. DING DONG THE WICKED WITCH IS DEAD. How poetic this comes the day Sexton died." Her message continued with some expletives we have deleted. She concluded by saying "Back when I was off due to drug accusations and praying, and praying, never would I have imagined she lose (sic) her job, marriage, and family, friends all at the same time! Karma! Now I should tell you how I really feel."

Summer learned about the e-mail and reported it to her supervisor. On January 17, the hospital suspended Barnett with pay pending its investigation. Barnett denied having sent out the e-mail, claiming that her computer had been hacked by unknown people. But the hospital did not find her claim to be credible.

On January 18, Barnett asked hu-

man resources for a Family and Medical Leave (FMLA) request form. Apparently, though, no one investigating the e-mail issue knew about this request.

On January 19, the hospital decided to terminate Barnett. They tried to arrange a meeting with her to discuss her situation. She said she was sick and could not attend a meeting, and explained she had requested a FMLA form. That was the first time the people involved in the e-mail investigation learned of her request for FMLA leave.

On January 26, Barnett requested a meeting and said she would be accompanied by her lawyer. The hospital let her bring a witness, but not her lawyer. She was told the hospital no longer needed her services because they had determined she had sent the e-mail and had repeatedly lied about it. Thus, they were either terminating her or allowing her to resign. She resigned under protest and sued under the FMLA.

During her deposition, Barnett admitted that she had sent the e-mail and had lied about it during the investigation.

Barnett argued that being fired for

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May Mother Access Medical Records of Adult Child?

The Health Insurance Portability and Accountability Act (HIPAA) requires health care providers to preserve the privacy of their patients. A court recently held that it applies to parents who work in clinics where their adult children are patients.

Tikita Jones was a long-time employee of the Shelby County, Tennessee, Division of Health Services. She worked in a clinic as a clerical specialist, making appointments, providing general information to patients and complying and assembling information. She had authority to access certain information in the clinic's medical records so she could perform her job duties.

Her daughter became a patient of the clinic where Jones worked. An unrelated investigation revealed that Jones had repeatedly accessed her daughter's medical records. She said that her daughter had authorized her to do so, but there was no proper authorization on file. The daughter said she had verbally authorized some but not all of her mother's actions.

Jones said that she had checked the records because her daughter had concerns about how long it took for a new prescription to take effect and to look at lab reports. The clinic said that "the interpretation of lab reports, side effects and the like would be 'far beyond the scope of responsibility of a

Clerical Specialist A.'" The clinic said Jones had no work-related reason to access her daughter's records and thus fired her. She sued, but lost.

Jones' argument that her daughter had given her permission failed, as her own daughter disputed some of her account. She had no work-related reason to access sensitive lab information that was part of her daughter's medical records.

She said her termination, after twenty years with the county, was unduly harsh. The Court agreed it was harsh, but noted that the county had tried and failed to find her another job where she would not have access to confidential information.

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what she said in a private e-mail while not at work was a violation of her First Amendment rights. The Court said that the First Amendment applies only to the government. The government cannot typically punish you for what you say, but a private employer can. And the hospital is a private employer.

She argued that the FMLA requires employers to give employees written notice within five days as to whether the leave they requested had been approved as FMLA leave, and

the hospital did not do that. The Court said the hospital's deadline for responding to her leave request was January 28, by which time she had already resigned. The hospital did not owe her any notice because she was no longer an employee. Even if they were required to provide her notice, she did not establish that the failure to do so harmed her in any way.

She also argued that she was asked to resign because she had requested FMLA. But the evidence established that her supervisors decided to re-

quest her resignation or terminate her before they had any idea she had asked for FMLA.

The Court said that the hospital had presented sufficient evidence to show that Barnett was asked to resign because she "had lied repeatedly to her supervisors regarding her conduct, and that she was terminated for her dishonesty."

The case is Barnett v. Aultman Hospital, 2012 WL 5378738 (N.D. Ohio 2012).



BHRC Announces Essay/Art Contest Winners

The theme for the 22nd annual essay and art contest was "What Rights Should Every Human Being Have?" Contestants competed at either a younger or older elementary level and in two categories, essay and visual art.

The first place winner in the younger-level category was Templeton Elementary School fourth grader Benjamin LoPilato. The second place winner was Fairview third grader Avery Lulu Njau and the third-place winner was Childs second grader Caleb Okulski. The first place winner in the older-level essay

division was Bloomington Project School fifth grader Joelle Jackson. The second place winner was Templeton sixth grader Ivy Richardson, and the third place winner was Alexander Eugene Schalk, a Templeton sixth grader.

First place in the younger-level art division went to Mr. Livingston's second grade class at Fairview. The second place winner was Childs third grader Simon Moore, and the third place winner was Templeton fourth grader Mora Maclaughlin. The first place winners in the older-level art division were Lakeview

sixth grader Becca Smith, fifth graders Peter Storm and Katrine Bruner, and fourth grader Eliza Henne. The second place winners were Lakeview sixth graders Ashlee Kerr and Casey Fleetwood, and the third place winner was University sixth grader Noah Moore.

Congratulations to all of these students.

Prizes were donated in part by Crider & Crider, Inc., Cassady Electrical Contractors, Andrews, Harrell, Mann, Carmin & Parker, PC, Avers Pizza and Scholar's Inn Bakehouse.



Photograph by Adam Wason

Mayor Mark Kruzan poses with the winners of the annual BHRC essay/art contest at an awards ceremony on March 20.



Four Women Honored by City's Women of the Year, Lifetime Contribution & Emerging Leader Awards

Four women were honored in March for their outstanding service to the community.

Marcia Veldman received the Woman of the Year Award at the Women's History Month Lunch on March 27. The award recognizes her advocacy for food justice, food security and food sustainability within communities. She has been a leader in a variety of different sustainability and food projects that promote healthy lifestyles, including the Meal Share food rescue program, the Plant A Row project and the Soup Bowl and Benefit.

Linda Simon and Sophia Travis were both honored with the Lifetime Achievement Award at the lunch. Simon has been an active member of the community since moving to Bloomington in the 1960's, devoting time at Bloomington Hospital, Volunteers in Medicine, the Monroe County Library and Ivy Tech, among others. She's served on many boards, including Volunteers in Medicine, Girls Inc. and the Greater Bloomington Chamber of Commerce. She is a founding member of Community Leaders for Education.

Sophia Travis was honored posthumously at the lunch. She served on the Monroe County Council, where she secured funding for Options For Better Living and Monroe County Futures Family Planning, Inc. She was an advocate for the Monroe County Women's Commission and was its first chair. She tied her love for fine arts, music and public service together to establish Tango & Beyond, a fundraiser for the Monroe County Youth Services Bureau and Project Safe Space.

Shelli Yoder received the Emerging Leader award at the Bloomington's Commission on the Status of Women's Leadership event on March 5. She entered Indiana's Ninth District Congressional

Celebrate Life: Suicide Prevention Film & Theater Festival

The 2013 MOSAIC Diversity Film and Theater Festival invites the public to attend "Celebrate Life: Suicide Prevention Film & Theater Festival." The free event will be held from 10:15 a.m. to 3:30 p.m. on Saturday, April 13 at the Monroe County Public Library, 303 E. Kirkwood Ave.

The purpose of the event is to raise awareness about suicide prevention. Suicide is the third leading cause of death for 10 to 12-year-olds and the second leading cause of death for college-aged adults, according to the United States Centers for Disease Control and Prevention.

"Celebrate Life: Suicide Prevention Film and Theatre" includes a film screening, panel discussion, theater workshop, presentation and information fair. The showcased film, "A Cry for Help," is a documentary about teenage mental illness and suicide. It follows two high schools in Ohio and New York as they attempt to determine those students most at risk.

The panel discussion following the film will include panelists Yolanda Tandy, a mental illness advocate; David Norris, associate pastor at the City Church for All Nations; Sharlene Newman, an associate professor in the IU Department of Psychological and Brain Sciences; Ed Schwartzman, an advocate and parent of a suicide victim; and Jean Scallon, a representative from the Jason Foundation, an organization that raises awareness and promotes the prevention of youth suicide.

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race in 2012, focusing on job creation, worker training, funding for health research and clean energy. Yoder has a long history of public service focusing on women's issues. She is a visiting lecturer in business communications and professionalism at the Kelly School of Business.